

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 714 of 1981

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

SOMNATH N MEHTA

Appearance:

Ms.Harsha Devani, learned A.G.P.for appellant
No one has appeared on behalf of the respondents
today despite service.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 04/08/2000

ORAL JUDGEMENT

This First Appeal is directed against the
judgment and decree passed in Special Civil Suit No.67/79
by Civil Judge (S.D.), at Surendranagar on 31.3.1981.
The respondent No.2 was appointed as a sole Arbitrator in
the matter of dispute between the present appellant and

respondent No.1. The respondent No.2 filed an Application on 30.8.79 alongwith the Award signed by him as the sole Arbitrator on 26.8.1979. The trial court made the Award the Rule of the Court in favour of respondent No.1 and ordered that the decree be drawn in favour of respondent No.1 and against the appellant in terms of the Award passed by respondent No.2

The impugned judgment and decree is assailed by the learned AGP on the ground that the Arbitrator had misconducted himself by not recording reasons for the finding he had reached in relation to the rival claims of the parties and that the Arbitrator in fact had declared the liabilities of the rival parties in terms of the money without stating as to how the liability had been determined. It has been urged that the Award is not a speaking award and, therefore, the trial court should not have made it a Rule of the Court.

I find from the impugned judgment that the trial court has based its order on two decisions of the Supreme Court i.e. in the case of Madanlal Rotionlal Mahajan v. Hakamchand Mills Ltd., reported in AIR 1967 SC 1030 and in the case of N.Challappan V. Secretary, Kerala State Electricity Board, reported in AIR 1975 SC 230. The Supreme Court has ruled in no uncertain terms in the latter decision that the umpire as sole Arbitrator was not bound to give a reasoned award and only when an erroneous proposition of law is stated, the award can be set aside. Therefore, there is no question of setting aside the Award. The trial court has rightly made the said Award to be the Rule of the Court. The aforesaid proposition of law has also been reiterated in the recent decision of the Supreme Court in the case of M/s.Kundale & Associates Vs. M/s. Konkan Hotels (P) Ltd., reported in AIR 1999 SC 2010.

Learned AGP has made a feeble attempt to raise the point that the interest could not have been awarded by the Arbitrator. This point was never raised before the trial court and there is no basis to now examine the validity of the Award on this question. The Arbitrator has to decide the dispute on the basis of the material available before him. In any case, I find that no interference is required with the order, as has been passed by the trial court. The same does not suffer from any infirmity either of fact or law. This Appeal has no force. The same is hereby dismissed. No order as to costs.

(M.R.Callan,J)

